

House Judiciary Committee Amendment # 1

Amendment No. 1 to HB0106

Briley
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 139*

House Bill No. 106

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 44-8-408, is amended by deleting the section in its entirety and substituting instead the following:

(a) As used in this section, "owner" means a person who, at the time of the offense, regularly harbors, keeps or exercises control over the dog, but does not include a person who, at the time of the offense, is temporarily harboring, keeping or exercising control over the dog.

(b) The owner of a dog commits an offense if that dog goes uncontrolled by the owner upon the premises of another without the consent of the owner of such premises, or other person authorized to give consent, or goes uncontrolled by the owner upon a highway, public road, street or any other place open to the public generally.

(c)

(1) A violation of this section is a Class C misdemeanor punishable by fine only.

(2) A violation of this section is a Class B misdemeanor punishable by fine only if the dog running at large causes damage to the property of another.

(3) A violation of this section is a Class A misdemeanor punishable by fine only if the dog running at large causes bodily injury as defined by § 39-11-106(2) to another.

(4) A violation of this section is a Class E felony if the dog running at large causes bodily injury to more than one (1) person or serious bodily injury as defined by § 39-11-106(34) to another;

(5) A violation of this section is a Class D felony if the dog running at large causes the death of another.

(d) It is an exception to the application of this section that:

(1) The dog was on a hunt or chase;

(2) The dog was on the way to or from a hunt or chase;

(3) The dog was guarding or driving stock or on the way to guard or drive stock;

(4) The dog was being moved from one place to another by the owner of the dog;

(5) The dog is a police or military dog, the injury occurred during the course of the dog's official duties and the person injured was a party to, a participant in or suspected of being a party to or participant in the act or conduct that prompted the police or military to utilize the services of the dog ;

(6) The violation of subsection (b) occurred while the injured person was on the private property of the dog's owner with the intent to engage in unlawful activity while on such property;

(7) The violation of subsection (b) occurred while the dog was protecting the dog's owner or other innocent party from attack by the injured person or an animal owned by the injured person;

(8) The violation of subsection (b) occurred while the dog was securely confined in a kennel, crate or other enclosure; or

(9) The violation of subsection (b) occurred as a result of the injured person, disturbing, harassing, assaulting or otherwise provoking the dog.

(e) The exception to the application of this section provided in subsection

(d)(1)—(4) shall not apply unless the owner in violation of subsection (b) pays or tenders payment for all damages caused by the dog to the injured party within thirty (30) days of such damage being caused.

(f) It is not a defense to prosecution for a violation of subsection (b) and punished pursuant subsection (c)(1), (2) or (3) that the dog owner exercised reasonable care in attempting to confine or control the dog.

(g) It is an affirmative defense to prosecution for a violation of subsection (b) and punished pursuant to subsection (c)(4) or (5) that the dog owner exercised reasonable care in attempting to confine or control the dog.

SECTION 2. Tennessee Code Annotated, Section 44-8-409, is amended by deleting the section in its entirety.

SECTION 3. This act shall take effect July 1, 2007, the public welfare requiring it.